

Department of Veterans Affairs

§ 20.302

statement that the appeal is withdrawn. If the appeal involves multiple issues, the withdrawal must specify that the appeal is withdrawn in its entirety, or list the issue(s) withdrawn from the appeal.

(2) *Where to file.* Appeal withdrawals should be filed with the agency of original jurisdiction until the appellant or representative filing the withdrawal receives notice that the appeal has been transferred to the Board. Thereafter, file the withdrawal at the following address: Director, Management and Administration (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420.

(3) *When effective.* Until the appeal is transferred to the Board, an appeal withdrawal is effective when received by the agency of original jurisdiction. Thereafter, it is not effective until received by the Board. A withdrawal received by the Board after the Board issues a final decision under Rule 1100(a) (§20.1100(a) of this part) will not be effective.

(c) *Effect of filing.* Withdrawal of an appeal will be deemed a withdrawal of the Notice of Disagreement and, if filed, the Substantive Appeal, as to all issues to which the withdrawal applies. Withdrawal does not preclude filing a new Notice of Disagreement and, after a Statement of the Case is issued, a new Substantive Appeal, as to any issue withdrawn, provided such filings would be timely under these rules if the appeal withdrawn had never been filed.

(Authority: 38 U.S.C. 7105(b) and (d))

[68 FR 13236, Mar. 19, 2003]

§§ 20.205–20.299 [Reserved]

Subpart D—Filing

§ 20.300 Rule 300. Place of filing Notice of Disagreement and Substantive Appeal.

The Notice of Disagreement and Substantive Appeal must be filed with the Department of Veterans Affairs office from which the claimant received notice of the determination being appealed unless notice has been received that the applicable Department of Veterans Affairs records have been transferred to another Department of Vet-

erans Affairs office. In that case, the Notice of Disagreement or Substantive Appeal must be filed with the Department of Veterans Affairs office which has assumed jurisdiction over the applicable records.

(Authority: 38 U.S.C. 7105 (b)(1), (d)(3))

§ 20.301 Rule 301. Who can file an appeal.

(a) *Persons authorized.* A Notice of Disagreement and/or a Substantive Appeal may be filed by a claimant personally, or by his or her representative if a proper Power of Attorney or declaration of representation, as applicable, is on record or accompanies such Notice of Disagreement or Substantive Appeal.

(b) *Claimant rated incompetent by Department of Veterans Affairs or under disability and unable to file.* If an appeal is not filed by a person listed in paragraph (a) of this section, and the claimant is rated incompetent by the Department of Veterans Affairs or has a physical, mental, or legal disability which prevents the filing of an appeal on his or her own behalf, a Notice of Disagreement and a Substantive Appeal may be filed by a fiduciary appointed to manage the claimant's affairs by the Department of Veterans Affairs or a court, or by a person acting as next friend if the appointed fiduciary fails to take needed action or no fiduciary has been appointed.

(c) *Claimant under disability and able to file.* Notwithstanding the fact that a fiduciary may have been appointed for a claimant, an appeal filed by a claimant will be accepted.

(Authority: 38 U.S.C. 7105(b)(2))

§ 20.302 Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.

(a) *Notice of Disagreement.* Except in the case of simultaneously contested claims, a claimant, or his or her representative, must file a Notice of Disagreement with a determination by the agency of original jurisdiction within one year from the date that that agency mails notice of the determination to him or her. Otherwise, that determination will become final. The date of